

Remarks

Claims 1 and 3-6 remain pending in the application. Claims 7-9 are canceled to better position the application for allowance or appeal.

Responsive to the restriction and election requirement in the Office Action of May 19, 2005, Applicants elect to prosecute claims 1 and 3-6. This election is made without traverse. Claims 7-9 have been cancelled.

In the Office Action of May 19, 2005, the rejection of claims 1, 3, and 6 under 35 USC §102(b) as being anticipated by Fitzpatrick et al (4,617,490) and of claims 4 and 5 under 35 USC §103(a) as being unpatentable over Fitzpatrick, as set forth in the Office Action of January 12, 2005, were maintained over Applicants arguments in the Amendment and Response of February 16, 2005. Applicants respectfully traverse the rejection.

Applicants believe that the Examiner misapprehended the arguments made by the Applicants in the Amendment and Response of February 16, 2005. Specifically, the Applicants argued that the composition disclosed by Fitzpatrick, a light filtering solution containing water, an aliphatic alcohol that may be 1,3-propanediol, and cinnamaldehyde or cinnamyl alcohol, did not anticipate or render obvious the composition of the present invention, a fuel cell engine coolant comprised of 1,3-propanediol having specific physical properties that is compatible with fuel cell cooling system materials, because the cinnamaldehyde or cinnamyl alcohol in the Fitzpatrick light filtering solution are not compounds that are compatible with fuel cell cooling system materials due to their susceptibility to oxidation. The Examiner's response in the Office Action of May 19, 2005 indicated that the Examiner found the Applicants' argument unpersuasive because claims 1 and 3-6 are directed to compositions, not to methods of using such compositions in a fuel cell, and the intended use of a composition is not given patentable weight with respect to the composition itself.


The compatibility of the claimed fuel cell engine coolant with fuel cell system materials, however, is a property of the composition of the claimed coolant, that, although related to the intended use of the claimed coolant, is independent of the use of the claimed coolant. In particular, the claimed composition will not, or will only minimally, corrode or erode fuel cell cooling system materials such as aluminum or

elastomers (see, e.g. Specification page 6, lines 4-6 and page 14 lines 30-31). This property exists as an element of the composition whether the composition is located in a fuel cell cooling system or is located in a bottle on a shelf. The composition disclosed by Fitzpatrick does not possess this property. As such, Applicants believe that dismissal of Applicants' arguments in the Amendment and Response of February 16, 2005 was improper, and request reconsideration of the claims in light of this response and the arguments presented in the Amendment and Response of February 16, 2005.

Respectfully submitted,

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